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Department of Revenue

OFFICE Board of Revenue

STATION Kandy

Gs No. 2 / 1 (41

Dated 26 - 3 - 63

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Issued urgent

DESPATCHED
Wed 27 MAR 1963

Pages in the file

(SUBJECT.)

Lease Land Reg (S. Kanara) Bangalore Taluk. Cooke Bangalore Municipality - widening the Kanara Road. - appeal unnecessary - withdrawn passed

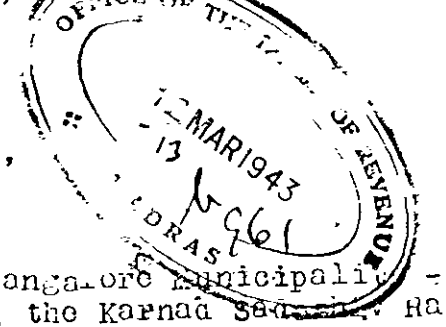
Ref.B1-5125-42. South Kanara Collector's office,
Mangalore, dated 3-3-1943.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue & Irrigation,
M a d r a s.



Sir,

LAND ACQUISITION - (South Kanara) - Mangalore Municipality - Casba Bazaar Village - T.S.No.68/2 - Widening the Karnad Sadashiv Rao Road, Mangalore - Land Acquisition case No.2/1941 of the Sub Court, Mangalore - Enhancement of compensation.

S.No.68/2 of Casba Bazaar Village, a plot measuring 1630 sq.ft. was acquired in Mangalore Revenue Divisional Officer's L.A.Case 13/35 for the purpose of widening the Karnad Sadashiv Rao Road in Mangalore Municipality. The Rev.Divl.Officer passed his award on 19-4-41 and the compensation awarded by him was Rs.518-11-8. On reference to the Court under Section 18, the Sub Court, Mangalore, has enhanced the compensation by Rs.585-0-0 as detailed below:-

Particulars.	Amount awarded by the L. A. Officer.	Enhancement by the Court.	Total as per Court's Order
Land value.	187-7-1.	93-11-6.	281-2-7.
Buildings, wells, trees, etc.	263-10-0.	15-0-0.	278-10-0.
15% solatium.	67-10-7.	76-4-6.	143-15-1.
Damages for severance, etc.	...	400-0-0.	400-0-0.
Total ..	518-11-8.	585-0-0.	1103-11-8.

2. In his letter Ref.No.A-1156-42 dated 3-12-42, the Government Pleader, Mangalore, who defended the award on behalf of Government, stated that chances of success in an appeal against the order of the Sub Court are remote. The Rev.Divl.Officer, Mangalore, is also of the same opinion. In its resolution No.5 dated 17-12-42, the Municipal Council, Mangalore, resolved that no appeal need be filed. On the receipt of the certified copies of the judgment and the decree from the Government Pleader on 28-1-43, however, I noticed that the 15% solatium had been awarded by the Court on the entire sum enhanced including the amount of Rs.400/- awarded as damages for severance and injurious affection and that this was opposed to law. This was pointed out to the Government Pleader who agreed with me on this point but -- opined that rather than file an appeal, a review application in the

P.T.O.

Sub Court would be sufficient. The Mangalore Municipal Council also approved of this suggestion. I have requested the Government Pleader to file a review petition accordingly. I request that my action may be approved.

3. In his judgment, the Subordinate Judge has given adequate reasons for enhancing the compensation under each item and I agree with the Government Pleader that there are not sufficient grounds for an appeal except on the question of the legality of the award of the solatium on damages in respect of which a review petition has been filed. The appeal time expires on 25-4-43 as shown in ~~the~~ paragraph 5 below. In the circumstances stated above, I recommend that the ---- question of filing an appeal may be dropped.

4. I enclose a copy of each of the L.A. Officer's award and proceedings, a copy of his report R.Dis.6878/42 dated 16-2-43, copies of the Sub Court Judgment and decree and copies of Govt.Pleader's -- letters Ref.A-1156-42 dated 3-12-42, Ref.A85-43 dated 3-2-43 and --- Mangalore Municipal Commissioner's letters D.Dis.18235/42 dated 31-12-42 and C3-822-43 dated 16-2-43 together with a copy of the resolution No. 5 dated 17-12-42 of the Municipal Council.

5. The particulars required under B.S.O. 95-1(ii) are furnished below:-

Date of order and decree.	...	1-12-42.
Date of application for copies.	...	2-12-42.
Date on which copies were delivered to the Vakil.	...	27-1-43.
Date of receipt of the same by the Collector.	...	28-1-43.
Date on which the time allowed for the appeal expires.	...	25-4-43.
Explanation for the delay where a clear fortnight is not allowed to the Board for the consideration of the case.	...	Does not arise.

For Collector.

Enclosures:

Copy of Very Urgent letter Ref.No.A-1156-42 dated 3-12-42, from M.K.Nambyar,Esq.,LL.M.(Lond.,) Barrister-at-Law, Government Pleader and Public Prosecutor, Mangalore, to the Collector of South Kanara, Mangalore.

SUITS - Land Acquisition - Mangalore Taluk and Town - Casba Bazaar Village - T.S.No.68/2 - Widening the Karnad Sadasiva Rao Road (Old Court Road) - Municipal Council, Mangalore - Claimant Sri Panait Venkat Rao - Reference to Civil Court under section 18 of the Land Acquisition Act - L.A.C.No.2/41 Sub Court of South Kanara - Result.

Your Ref:-B3-6270-41, dated 9-9-1941.

The Subordinate Judge of South Kanara passed orders yesterday in L.A. Case No.2/41. The claim is for enhancement of land value at Rs.10000/- per acre as against Rs.5000/- per acre awarded by the Land Acquisition Officer. The land value awarded by the Revenue Divisional Officer was Rs.187-7-1 and the compensation for improvements Rs.263-10-0. The claim in this Court for improvements is Rs.185/- more than what was granted by the Rev.Divl. Officer. A sum of Rs.400/- has been claimed in this Court as compensation for injurious affection and another sum of Rs.400/- as damages for severance. The total claim exclusive of solatium amounts to Rs.1176-7-1 over and above what was granted by the Revenue Divisional Officer.

This Court has enhanced the land value from Rs.5000/- to Rs.7500/- per acre, thus granting an additional sum of Rs.93/- for land value. The claim for enhanced compensation for improvements was rejected by the Court in all cases except the irongate for which an additional sum of Rs.15/- has been awarded. The claim of Rs.400/- as damages for severance has also been rejected; but a sum of Rs.400/- as compensation for injurious affection has been allowed in full. The total enhancement inclusive of 15% solatium amounts to Rs.585-0-0 which sum will carry interest at 6% per annum from 9-5-1941, the date of taking possession till payment into Court.

In L.A.C.Nos.9 to 13 of 1938 this Court had enhanced the land value from Rs.5000/- to Rs.8000/- per acre for other lands acquired for broadening the Court Road in the vicinity and therefore the land value awarded in this case cannot be said to be excessive. With regard to the compensation for injurious affection, I may add the same has been decided above by the Court on a local inspection of the plot in question and being one of appreciation of a fact, chances of success in an appeal against the award are remote. I have however applied certified copies of the order for appeal. If no appeal is intended I may be informed urgently whether the printing charges should be deposited.

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Copy of letter No.D.Dis.18255/42 dated 31-12-42, from Sri K. Ramaswami Mudaliar, Commissioner, Mangalore Municipality, Mangalore, to the Collector of South Kanara, Mangalore.

LAND ACQUISITION - Casba Bazaar village - T.S.No.68/2 - Widening the Karnad Sadasiva Rao Road - L.A.C.No.13/35 L.A.C. 2/41 of the Sub Court.

P.T.O.

Reference: Your E2-5125-42 dated 11-12-1942.

I enclose a copy of Council Resolution No.5 dated the 17th December 1942 in the matter for your information. The Council is not in favour of filing an appeal.

Extract from the proceedings of the Mangalore Municipal Council, dated the 17th December 1942.

* * *

Resolution No.5. Read letter Ref.E2-5125-42 dated 11-12-42 from the Collector of South Kanara, enclosing a copy of the Government Pleaders letter dated 3-12-42 in the matter of L.A.C.13/35 and 2/41 of Sub Court (widening the Karnad Sadashiva Rao Road) and requesting to be informed whether the Council desires to file an appeal in the High Court and agrees to bear the charges of litigation.

B The Council does not desire to file an appeal.

* * *

(Sd-) K. Ramaswami,
Special Officer.

****

Copy of Very Urgent letter Ref.No.A.85-43 dated 3-2-43, from The Government Pleader, Mangalore, to the Collector of South Kanara, Mangalore.

LAND ACQUISITION - Mangalore Taluk and Town - Widening the Karnad Sadashiva Rao Road - Kasba Bazaar village - T.S.No.68/2 - L.A.Case No.2/41 of the Sub Court of South Kanara.

Your Ref:-B1-5125-42, dated 1-2-1943.

I agree that the award of 15% on the compensation other than on land is wrong; and this escaped my notice. It appears to me to be sheer inadvertence on the part of the Court and ~~on~~ an error apparent on the face of the judgment. Rather than file an appeal, a review application in C the Sub Court seems to me to be sufficient. The period of limitation is 90 days from 1-12-1942. The printed copy of the judgment is returned herewith.

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Copy of Urgent letter No.C3-822-43, from Sri K. Ramaswami Mudaliar, Commissioner, Mangalore Municipality, Mangalore, to The Collector of South Kanara, Mangalore, Dated 6.2.43.

LAND ACQUISITION - Mangalore Town - Widening Karnad Sadashiva Rao Road - Casba Bazaar village - T.S.No.68/2 - L.A.Case No.2/41, of the Sub Court - Opinion of the Council.

Ref:-Your letter Ref.B1-5125/42 dated 1-2-43 and 11-2-43.

The question of filing an appeal in the above case was placed before the meeting of the Municipal Council held on 15-2-1943 and the Council has in its resolution No.35 approved the suggestion made by the Govt.Pleader in his letter No.Ref.A.85/43 dated 3-2-43 to apply for a review of the judgment of the Sub Court. (True Copies) 6.2.43.

---o-oo-o---

To be entered in Encumbrance Register

B.F. XVIII-A-30—16,802—28-10-27.

AWARD.

L.A.C No. 15/38 Dated 19th April, 1941.

(To be filled in by the Land Acquisition Officer in his own hand.)

Made by Sri K.Krishnayya, B.A., Revenue Divisional Officer, Mangalore
(Under section 11 of the Land Acquisition Act I of 1894.)

Whereas an extent of land measuring acres 1633 sq.ft. and situated in the village of Ooeba Bazaar, in the taluk of Mangalore, in the registration sub-district of Mangalore, in the district of South Kanara, and registered in the name of, or occupied by, the persons specified below, has been declared by Government at page 332 of the *Fort St. George Gazette*, Part I-A, dated 9-3-1937, to be needed for widening the Kamaed Sadashiva Rao Road in Mangalore Municipality

the undersigned, after full enquiry into the case and on due consideration of the various circumstances connected with the acquisition as herebefore set forth, makes the following award under his hand:—

(i) The true area of the land is ~~acres~~ 1633 sq. feet.

(ii) The compensation allowed for the land is Rs. ~~as shown below:—~~ 518--1--8

	RS.	A.	P.
(*a*) (1) The market value of the land subject to full assessment peshkash or ground-rent as the case may be and in the case of house-site held free its market value as such exclusive in all cases of trees, buildings and standing crops at Rs. ~~5000/-~~ per acre—vide B.S.O. No. 90, paragraph 14 (i) (1).	187	7	1
(2) In the case of inams other than those mentioned in paragraph 14 (ii) of B.S.O. No. 90, compensation for loss of privilege calculated at 20 times the assignment of Government revenue to which the inamdar is entitled—vide B.S.O. No. 90, paragraph 14 (i) (2).			

	Rs.
(3) In the case of inams coming under paragraph 14 (ii) of B.S.O. No. 90, the amount of net assessment guaranteed to the inamdar at the time of the inam settlement on the extent acquired, which represents the melwaram interest is Rupees	---

NOTE.—The value of the compensation for the kudivaram interest is to be entered against item (ii) (*a*) (1) above.

(*b*) Valuation on account of buildings, wells, crops, trees, etc.	260--10--0
(*c*) 15 per cent on items (*a*) (1) and (2) and (*b*).	67--10--7
(*d*) Other damages, if any (to be specified).	---
Total ..	310--11--8

Rupees Five Hundred and eighteen, annas eleven and pies eight.

Survey or paimash number.	Extent.	Name of registered holder or occupier.	Boundaries of the land.			
			North.	East.	South.	West.
			T.S.No.	T.S.No	T.S.No.	T.S.No.
Ward No.IV Block No.5 T.S.68/2.	1633 Sq.Ft.	Sri.Pandit Venkat Rao.	62 & 67	67	69	68/1

The undersigned certifies that:

(*a*) Notices have been promulgated or served in accordance with section 9 of the Land Acquisition Act and that evidence of such promulgation or service forms part of the record.

(*b*) There is before him a plotted plan of the land or lands to be acquired.

(Sd.) K.Krishnayya
Rev.Divl.Officer,
& *Land Acquisition Officer.*

/True copy/
(By Order)

Clerk

(iii) The person or persons to whom the compensation is due—

Serial number.		Name.	Rs. A. P.
Ward IV Block 5 T.S.No.68/2	Serial No. 1	Sri Pandit Venkat Rao, son of Pandit -- Parameshwaraya, Bolar, Mangalore.	518--11--8

Ref. C.No.1195/40.

Proceedings of the Revenue Divisional Officer, and Land Acquisition Officer, Mangalore, dated 19th April, 1941.

Sri K.Krishnayya, B.A.

Land Acquisition - Mangalore Taluk and town - Widening the Karnad Sadashiva Rao road (old Court road) - L.A.C.13/1935 - Award passed.

Ref.- D2-2544-40, dated 23-2-1940 from the Commissioner, Mangalore Municipality.

T.S.No.68/2 of Casba Bazaar village, Mangalore Town is required by the Mangalore Municipality for widening the Court road in Mangalore Municipality. The acquisition of this plot was taken up along with 17 other plots lying in its immediate vicinity, in L.A.C.13/35 of the Revenue Divisional Officer, Mangalore and the declaration under section 6 of the Land Acquisition Act in respect of all the 18 plots concerned in the case was published at page 141 of Part I-A of the Fort St.George Gazette dated 9-3-37 as Notification No.332. The first award was passed in this case on 24-3-38 with regard to only 16 plots. Award in respect of the remaining two plots viz., T.S.Nos.13/2A and 68/2 had to be then deferred as references made to the Court of the Subordinate Judge of South Kanara under section 49 of the Land Acquisition Act were pending disposal before that Court. Subsequently with regard to T.S.No.13/2A the Court held that the entire plot T.S.No.13/2 should be acquired and the whole of it was accordingly acquired separately in L.A.C.No.16/1933 on the file of the Revenue Divisional Officer, Mangalore. In regard to T.S.No.68/2 with which alone I am now concerned the Subordinate Judge, South Kanara passed orders on 9-2-40 in L.A.C.13/37 on his file in terms of a joint memorandum filed before him on that date on behalf of the Land Acquisition Officer and the claimant as a result of compromise between the Municipality and the claimant. The Sub-division records were got prepared in accordance with the above order of the Court. The extent of the plot proposed for acquisition by the Municipality as a result of the amicable settlement is 1633 square feet against 3421 sq. feet originally proposed for acquisition. Under paragraph 2 of Chapter XXIX of Part III of the Land Acquisition Manual, the question of withdrawal from acquisition of T.S.No.68/2 as originally notified does not arise as only a portion of it without any consequent alteration of any of the boundaries is now sought for acquisition. The declaration originally published is therefore acted upon and I proceed to pass the award in respect of the last plot viz., T.S.No.68/2 in this case.

I. True area.- The actual area of the land as computed by the Inspecting Tahsildar, South Kanara after technical scrutiny is 1633 sq. feet. The correctness of the area has not been disputed by the owner and I accept the area computed by the Inspecting Tahsildar as the true area of the land.

II. Valuation.- The land under acquisition viz., T.S. 68/2 is similarly placed as other lands concerned in L.A.C. 13/35 the award in respect of which was passed by Sri M.S. Jagannayakulu Naidu, B.A., Revenue Divisional Officer, Mangalore on 21-3-1938. He fixed the land value for all the plots at Rs.5000/- per acre after taking into consideration several statistics of land sales in the locality. I do not find any grounds to deviate from his valuation of land adopted in this very case. S.No.68/2 is quite similar to T.S.No.69/2 immediately adjoining it on the south, which was paid for at Rs.5000/- an acre in the above case. I therefore adopt market value for this land at Rs.5000/- per acre

The compensation claimed by the part at Rs.25,000/- an acre is exorbitant and no evidence in support of this claim has been adduced by the party.

The improvements existing in the plot under acquisition and their value as fixed by me after local inspection are particularised below:-

		Rs.	A.	P.
Mud wall		14	0	0
Laterite in mud ..		2	10	0
Gate pillars ..		20	0	0
Gate (shutters iron)		25	0	0
Well		150	0	0
Entrance drain (arch)		10	0	0
Trees		42	0	0
*Two cocoanut trees at Rs.20/- each ..	40--0--0			
Darehuli tree .	1--0--0			
1 wild tree ..	0--6--0			
Drum stick plant and other wild plants	0--8--0			
	42--0--0			
Total ..		263	10	0

In the result, I award the following compensation for ie plot T.S.No.68/2.

Land 1633 sq. ft. at Rs.5000/- per acre	187	7	1
Improvements detailed above	263	10	0
Add 15 % solatium ..	67	10	7
Grand total	518	11	8

B

III. Persons to whom payable.- Mr. Pandit Venkat Rao is the Registered holder and absolute owner of the plot. The above-said sum of Rs.518-11-8 will therefore be paid to him.

IV. Allotment of funds.- The Commissioner, Mangalore Municipality has placed the necessary funds at my disposal.

(Sd.) K.Krishnayya,
19-4-41.
Revenue Divisional Officer, &
Land Acquisition Officer.

/True copy/
(By Order)

9.7.41
Head Clerk.

9.7.41

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

Present:- Sri T.D.Ramaiya Pantulu, M.A.,B.L.,
Subordinate Judge.

Tuesday, the 1st day of December 1942.

Land Acquisition Case No. 2 of 1941.

(L.A.C.No.13 of 1930 on the file of the Revenue Divisional and Land Acquisition Officer, Mangalore).

Between

The Revenue Divisional Officer, Mangalore. — Petitioner. (Land Acquisition Officer).

And

Pandit Venkat Rao, son of---- Pandit Parameshwaraya, Bolar, Mangalore. — Respondent. (Claimant).

This is a reference under Section 18 of the Land Acquisition Act, by the Revenue Divisional and Land Acquisition Officer, Mangalore who acquired T.S.No.68/2 of Mangalore Town for the purpose of widening the Karnad Sadashiva Rao Road (Old Court Road) within the Municipality of Mangalore, and awarded a compensation of Rs.516-11-8. The claimant -- claims enhancement under several heads and hence this reference. The aggregate amount of enhancement claimed is Rs.1141-7-1 over and above the amount awarded by the Land Acquisition Officer.

O r d e r:-

This case coming on for trial on Tuesday the 17th, Wednesday the 18th, days of November and for hearing on Tuesday the 24th day of --- November, 1942 after notice to the Collector and the claimant and upon perusing the reference, the statement filed by the respondent, and the material papers in the case and upon hearing the arguments of the --- Government Pleader for the petitioner and of Sri B. Vaikunta Baliga, pleader for respondent, and having stood over to this day for consideration, it is hereby declared that the compensation payable to the --- claimant is liable to be enhanced by Rs.585/-; and it is hereby ordered that the said sum of Rs.585/- be deposited by the Government into Court on or before the 1st day of February, 1943, with interest on the said amount at 6 percent per annum from 9-5-1941 till date of deposit; and that each party do bear its own costs in this case.

Pleadersfee payable to Government)
Pleader @ 4 per cent on Rs.1141-7-1) Rs.45-10-8.
being the enhancement claimed.)

P.T.O.

Given under my hand and the seal of the Court this the 1st day of December, 1942.

(Sd.) T.D.Ramaiya,
Subordinate Judge.

(True Copy)
****

Copy of letter R.Dis.6878/42 dated 13-2-43, from Sri J.J.Ponnaiya, B.A., Revenue Divisional Officer, Mangalore, To the Collector of South Kanara, Mangalore.

LAND ACQUISITION - Mangalore Taluk - Mangalore Municipality - Casba Bazaar village - T.S.No.68/2 - Karnad Sadashiva Rao Road - Widening Civil Court award - Appeal - Report submitted.

Your R.O.C.No.5125/42, dated 11-12-42.

A copy of the Sub Court judgment passed on the reference made by the Land Acquisition officer under Section 18 of the Land Acquisition Act was submitted to you in this office R.O.C.6878/42, dated 18-1-43. I referred the matter to the Commissioner, Mangalore Municipality to suggest grounds if any for preferring an appeal in the case. The Council has resolved that it is not in favour of filing an appeal and bear the incidental charges of litigation. The Government Pleader also does not hold out hopes of success if appeal is preferred.

The land T.S.No.68/2 was acquired as per terms of the compromise decree (copy enclosed) passed by the Subordinate Judge on a reference from this office under Section 49(1) of the Land Acquisition Act. The portion to be left out and the portion to be acquired was decided and joint compromise effected. The Court's award under this head is a major item involving Rs.400/-. I do not think that the existence of the compromise will debar the interested party from preferring the claim under injurious affection and severance, which he has put in at the time of the award enquiry. It is therefore submitted that this item cannot be argued on point of law. As the Sub Judge has personally inspected the place and fixed the compensation it is highly improbable that the High Court would disregard Judicial Officer's view of the case on point of facts. There is no case for appeal in respect of the --- enhancement under land value and cost of iron gate for the reasons -- stated in the Sub Judge's order.

In the circumstances reported above, I submit that I agree with the opinion of the Municipal Council and the Government Pleader.

(True Copy)

For Collector.

03.43

In the Court of the Subordinate Judge of South Kanara.

Present:—Sri T. D. Ramaiya Pantulu, M. A., B. L.,

Subordinate Judge.

Tuesday, the 1st day of December, 1942.

LAND ACQUISITION CASE NO. 2 OF 1941.

(L. A. C. NO. 13 OF 1935 ON THE FILE OF THE REVENUE DIVISIONAL AND LAND ACQUISITION OFFICER, MANGALORE).

Between:—

The Revenue Divisional Officer, Mangalore . . *Petitioner (L. A. Officer).*

and

Pandit Venkat Rao . . . . . *Respondent (Claimant).*

This case coming on for trial on Tuesday the 17th, Wednesday the 19th days of November, and for hearing on Tuesday the 24th day of November, 1942, in the presence of the Government pleader for the petitioner, and of Sri B. Vaikunta Baliga, pleader for respondent, and having stood over to this day for consideration, the Court made the following

Order.

1. This is a reference under Section 18 of the Land Acquisition Act, made at the instance of the claimant in respect of the acquisition of T. S. No. 68/2 of Kasba Bazaar village, Mangalore Town, acquired by the Government on behalf of the Mangalore Municipality for widening the Karnad Sadashiva Rao Road. The Municipality took possession of the acquired property on the 9th of May, 1941. The declaration under Section 6 of the Act was published in the Fort St. George Gazette on the 9th of March, 1937. The valuation has to be made as on that date.

2. Various points have been raised by the claimant in this Court in support of his claim for enhancement of the valuation made by the Land Acquisition Officer.

3. The first contention is that the value for the land given by the Officer at Rs. 5,000 an acre is wholly inadequate considering the situation of the property. The Land Acquisition Officer followed the valuation adopted by the Revenue Divisional Officer, Mangalore, in L. A. C. No. 13 of 1935, as he considered that similar considerations would apply. T. S. No. 69/2 lies immediately to the south of the locality in question, and it was paid for at Rs. 5,000 an acre in the above case. The locality in question is purely residential, though it is within easy access of the Hampankatta junction where there are a number of shops doing considerable business. The property is also within easy reach of the Civil Court buildings, and there are a number of lawyers' Offices located on this road. It must, however, be mentioned that there is bound to be a difference in value between the sites on the eastern side of the Court Road and those on the western side. The western side plots are comparatively low-lying, but as among themselves some are better situated than others. I inspected the locality now in dispute, and found that the plot in

question belongs to the category of, perhaps, the best plots on the western side of the road. It is also necessary to mention that though the front portion of the compound of the claimant's house was acquired, it was done for the purpose of widening the Court Road (also known as Karnad Sadashiva Rao Road) and did not therefore result in the claimant's losing the important amenity of a road frontage. I must also mention that this Court held in certain references from the Land Acquisition Officer (Exhibit P2 dated 13th December, 1940) that the land value of certain property situate on the eastern side of the road should be taken at Rs. 8,000 an acre. Though that value cannot be adopted *en bloc*, it would certainly furnish a basis for valuing the suit plot. Making allowance for the fact that the plot in question is comparatively low-lying, though not quite so much as the other plots to the west of the road, I would consider it proper to allow land value at Rs. 7,500, an acre as against Rs. 5,000 an acre allowed by the Land Acquisition Officer. The claim of Rs. 10,000 an acre made by the claimants is in my opinion, too high and cannot be accepted.

4. It is next contended that the claimant is entitled to get Rs. 400 by way of damages for injurious affection, and another Rs. 400 by way of damages for severance. The Land Acquisition Officer considered that the injurious affection was imaginary, and did not allow any damages on these heads. The contention for the claimant is that as the result of the acquisition, the well had to be closed, that it is not possible to sink another well in the front portion of the compound, and that if a well is sunk in any other place, there would be considerable difficulty in watering the trees in the garden as the slope is from east to west, and that the acquisition also necessitates the putting up of a road leading from the main road to the house for conveyance and so on, with a very high and difficult gradient. He therefore claims damages for injurious affection and severance. He also complains that the Municipality wrongfully filled up the whole well, though only a portion of it was included in the acquired land.

5. So far as the well is concerned, it is admitted that the entire well was filled up. It was, perhaps, done in the interests of the claimant himself and if the claimant had any objection he could have protested then and there. As regards the sinking of another well, there would, no doubt, be some difficulty in excavating one in the front portion of the compound near the site of the old well. If the well is shifted further westwards, then there will no doubt be difficulty in watering the garden since special arrangement must be made for letting the water flow for the trees situate on a higher level. This no doubt seems to me to require some compensation. As regards the drive from the road to the house, it will not be possible to have an approach road with an easy gradient considering the distance from the present road to the building, if it is to be right in front of the building. If, on the other hand, the approach road is constructed on one side, the gradient will be quite easy and comfortable. That would however necessitate a longer road and perhaps an additional culvert with walls across the storm water drain in front of the house. I must mention that the building is about 35 feet from the present road and 23 feet from the front portico of the house. The width of the acquired portion is 10 feet on the south and 15 feet on the north. I do not think the acquisition of this width of the front portion of the compound of the claimant has by itself materially affected the value of the rest of the plot retained by the claimant, except in so far as the well and the approach road are concerned. I would therefore award by way of damages for injurious affection and severance a sum of Rs. 400.

6. The next item relates to the well that was filled up. The claimant asks for another Rs. 50 in respect of it. The well was not a steined one. It was in a

dilapidated condition and had a mud parapet wall. The evidence of P. W. 1 shows that Rs. 150 is quite reasonable for the well. I do not think the claimant is entitled to any enhancement under this head.

7. The next item is a claim for the licence fee for the entrance drain. The claimant asks for a permanent free licence. I really do not think there is anything in this. The claimant will not be entitled to the Rs. 10 he claims.

8. The next item is the compensation for the gate. The Land Acquisition Officer has awarded Rs. 25 in respect of it. The claimant asks for another Rs. 25. Considering the considerable price of iron materials, I think the claimant should be entitled to get another Rs. 15. I award Rs. 15 more under this head.

9. The next item is the value of the cocoanut trees. The Land Acquisition Officer has awarded Rs. 40, but the claimant asks for another Rs. 60. I do not see any basis for this. I would disallow it.

10. Another item is a *Dare Huli* tree. Here again the claim is exaggerated. The Land Acquisition Officer gave Re. 1 for it, and I think it is quite adequate. I reject this claim.

11. On this basis, the claimant will be entitled to an additional compensation of Rs. 93—11—6 for land value, Rs. 400 for damages for injurious affection and severance, and Rs. 15 for cost of the gate, *i. e.* Rs. 508—11—6 in all. This sum with 15 per cent solatium comes to Rs. 585.

12. I therefore enhance the compensation payable to the claimant by Rs. 585, and direct that this sum be deposited by the Government within two months from this date, with interest on the said sum at 6 per cent per annum from 9—5—1941 till date of deposit. There will be no order as to costs of this claim, as the success is divided.

Dictated to shorthand-writer, and pronounced in open Court, this the 1st day of December, 1942.

(Signed) *T. D. Ramaiya,*
Subordinate Judge.

PETITIONER'S EXHIBITS.

P1.	12— 9—1940.	Sub-division record relating to the acquired plot with plan attached to it.
P2.	13—12—1940.	Certified copy of award of this Court made in L. A. C. Nos. 9 to 13 of 1938.
P3.	30— 5—1936.	Valuation statement prepared by the Town Planning Overseer.

RESPONDENT'S EXHIBITS.

D1.		Sketch showing the plots sold at the Hampankatta Guliga Hithlu by the Mangalore Municipality.
D2.	8— 3—1939.	Certified copy of the list of bidders in the Guliga Hithlu Auction sales.
D3.	24— 9—1942.	Certified copy of list showing the plots sold in public auction in Block No. 10 Market Ward Town Planning Scheme with the price and names of the successful bidders.

D4. 8— 1—1942. Letter of St. Joseph's Asylum, Kankanady, Messrs A. P. Matpadi Bros. regarding the cost of supplying a gate.

PETITIONER'S WITNESS.

K. Dinkar Rao (Town Planning Overseer).

RESPONDENT'S WITNESS.

Pandit Venkat Rao (respondent).

(Signed) **T. D. Ramaiya,**
Subordinate Judge.

Exd.

(True copy) 10

Superintendent.

Application No. 6798 made on 2—12—1942 by Vl Sri. M. K. Nambiyar
Printing charges called for on 23—12—1942
Charges Rs. 5 As. 8 paid on 30—12—1942
Copy ready on 26—1—1943
Do. delivered on 26—1—1943

Superintendent.

Suit - Land Acquisition (S. Kanara)
Bangalore - Taluk - Coast Bazaar
village. T. S. no 68/E. widening
15 ft. mi & Karnad Sadashiva Road -
Appeal unnecessary - order passed.
Read letter from the Collector
S. Kanara & Proceedings
Issue urgently
dated 23-3-43
Regd (Ms) 291 (Ms) of 26-3-43
The Board agrees
DESPATCHED
27 MAR 1943
the Collector that no appeal
need be filed in the
Court. It also sanctions
the filing of a review
petition in the Privy Council

Bangalore ... Jail ... the award

of Retention of 15/- as respect

of the Compensation for

damages for personal & injurious affection

decreed by the Court

and dismissed the Cross

action in Suit directed the

Appellate file the memo

Court ... RG 21/3

Rs 24/3/47 2/25/3 ...

To the Coll. of S. Kanara.

Ref.Bl.No.5125-42.

From

M.Karamatullah, Esq., I.C.S.,
Collector of S.Kanara.

South Kanara Collector's Office,
Mangalore, dated 28 - 5 - 1943.

To

The Secretary to the Board,
Land Revenue & Irrigation,
Salem. ~~Madras.~~

Sir

Suits - Land Acquisition (South Kanara) Mangalore Taluk - Casba Bazaar village - T.S.No.66/2 - widening of Karnad Sadasiva Rao road - R.I.A. result reported.

Refce: B.P. Mis.No. 291 M dated 26-3-43.

The Subordinate Judge has since allowed the review petition referred to in my Ref.Bl.No.5125-42 dated 3-3-43 and revised his previous decree. According to the revised decree the Government will get a refund of Rs.66/- of which Rs.60/- represents the extra solatium and the balance of Rs.6/- the extra interest paid.

For Collector.

28.5.43.

To A.S.(J)

This may be lodged with No action is necessary.
No 291 (M) of 26.3.43.

Last date for filing appeal : 25-4-43

M4
T.S

Suit : Land Acquisition (S. Kanara) Bangalore

Taluk : Cauba Bagnar village : T.S. No 68/2a :

Widening of Karnad : on Sadasiva Rao Road :

Ph 1-2 of — Read letters from the Coll of S. Kanara No 5125/42 dt 7-3-43.

T.S — Proposal for payment of Rs 1 lakh

The subject relates to the filing of an appeal against the Award of the Sub Judge of S. Kanara in L.A.C. No 12 of 42 (L.A.) Bangalore Compensation awarded by the Land Acquisition Officer in respect of acquisition of T.S. No 68/2a of Cauba Bagnar village of Bangalore Town for widening the Karnad Sadasiva Rao Road. The facts of the case are briefly mentioned in the Collr's letter at pp 1-2 of the Sub Court has awarded the compensation

p1 of para 1 — Rs 1,88,585/- as the amount of Rs 3718-4-10 as awarded by the L.A.O.

— The valuation relates to 3 items

p1 of — (1) the land value (2) value for improvements

(3) Compensation for damages and severance

p10 of portion B — The L.A.O. values the land which is 87,270 and the buildings, gate & well at Rs 263-10-0. He fixes the value of the land at Rs 5000/- and is dissatisfied with reference to the value for

p5 of portion B — Compensation awarded for a plot immediately adjoining the former to the South which was acquired in 1935.

p1½ of portion — The Sub Judge values the plot at Rs 7500/- and is dissatisfied with reference to the decree of the Court in 1936 regarding the value of certain plots in the

neighbourhood [illegible] [illegible] [illegible]

hands in Claims for restitution of the said awarded or any Compensation for damages for [illegible] pp 1-15 of para 6 i

only for the interference of the said Landowners in awarding any Compensation for damages for severance [illegible] p 10 of.

and no injurious affection of the said Respondents claims [illegible] p 16 of, para D

a sum of £ 800 or such other sum as should [illegible] The Compensation [illegible] p 16 of para 5.

for severance and [illegible] and the Arbitrator would have [illegible] difficulty in [illegible] [illegible] [illegible]

relies upon by the L. A Co. was not Conclusive by
the Circumstances affecting the price in question.
The Compensation awarded is Rs for the
land is only Rs 93-11-6 and the Subjudge has
explained in his judgement how the rate of Rs 750 p.c.
Rs 13-14 of para 3. be the
Courts be fixed for the land.

Thus it can be seen that there is no
case for an appeal against the decree of
the Subjudge. The only mistake committed by
p 15 of para 11 the Subjudge is that he awarded the
solatium of 15% in respect of the Compensation
for damages & Severance awarded by him
and this is Contrary to law. The Coll. has asked the
p 2 of para 2 Govt. of Madras to file a review petition with
regard to the above mistake. The Coll. of the
p 2 of para 3 Govt. do not recommend an appeal on any
other point. The Bangalore Municipal Council
portion A of p 4 of has preferred the filing of a review petition
portion B of p 4 of but is not in favour of filing an appeal.
Therefore the Board may agree with the
Coll. & decide that no appeal need be
filed in the case. It may also approve
the Coll's action in filing the review
petition. — For orders

A

Joint Secy.
14 MAR 1943

SBG
23/10/43.
2/24.10.43.

A may be approved. The enhancement for improvements and for damages under 'injurious affection' is properly reasoned. The enhancement of land values is on shakier ground, but the amount is comparatively small (Rs. 93.11.6) & we have no strong case in appeal, the judgment of value depending largely on appreciation of the advantage of the situation as well as on statistics. The erroneous 15% added to compensation to be dealt with in the review proceedings.

RG
26/.

4

CIRCULATION CHECK SLIP.

B.P.No. 66 291

Dated: 26.3.' 194 3.

Single Member.
Two ~~Members~~.
Full ~~Board~~.

	I-A.	A.D.S. & L.R.	A.S. L.R.	A.S. Irrn.	A.S. Sep. Rev.	J.S.	S.	M3.	M2.	M1.
(1) Open file seen by.						✓	✓			
(2) Final draft seen by.						✓				
(3) Now circulated to:						✓				
(4) Initials.						Roy 30/3				

** ~~Secretary~~
Joint Secretary.
30/3

Passed for record
~~A.S. (L.R).~~
A.S. (Irrn).
~~A.S. (Sep.Rev.).~~
A.D.S. & L.R.
I-A.

RG 2.4

** Note: Entries not required to be scored out.